

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION**

<b>WILLIAM L. RACKHAM,</b>	)	<b>Civil Action No. 7:03cv00574</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b><u>MEMORANDUM OPINION</u></b>
	)	
<b>DEPARTMENT OF VETERANS</b>	)	<b>By: Samuel G. Wilson,</b>
<b>AFFAIRS,</b>	)	<b>Chief United States District Judge</b>
<b>Defendant.</b>	)	

William Rackham, proceeding *pro se*, brings this action pursuant to 42 U.S.C. § 1983, alleging that the Department of Veterans Affairs cut his disability payments, forced him into an “adult home,” prevented him from applying for an apartment or for employment, and threatened to send him to a psychiatric hospital. Although it is unclear what specific remedy Rackham seeks from the court, he requests the court to “implament [sic] a waiver of all pensions, hospitalization and benefits.” The Department of Veterans Affairs moved to dismiss the case and Rackham, who was properly notified of the motion, failed to respond. Since Rackham’s claims are not within the subject matter jurisdiction of the court, the court grants the unopposed motion to dismiss.

**I.**

The Department of Veterans Affairs raises a host of defenses to Rackham’s claims, including sovereign immunity, failure to exhaust administrative remedies, and improper service of process. Initially, however, it should be noted that Rackham is proceeding *pro se*, but even *pro se* plaintiffs have the burden of establishing subject matter jurisdiction. Davis v. U.S., 36 Fed. Cl. 556, 558 (1996). Here, Rackham bases his claims on § 1983, which applies to “[e]very person who, under color of any

statute, ordinance, regulation, custom, or usage, of any State" deprives anyone of a civil right. 42 U.S.C. § 1983. "[S]ection 1983 does not provide a forum to redress actions taken by the United States government or its agencies under federal law." Scott v. U.S. Veterans Administration, 749 F.Supp. 133, 134 (W.D. La. 1990). The federal government and its agencies are not "persons" within the meaning of § 1983 and are "facially exempt" from the statute. District of Columbia v. Carter, 409 U.S. 418, 425 (1973); Scott, 749 F.Supp. at 134 (granting a motion to dismiss because the Veterans Administration, which was later renamed to the Department of Veterans Affairs, is an agency of the federal government and, therefore, is not a "person" within the meaning of § 1983). Since the Department of Veterans Affairs, as an agency of the federal government, is not subject to claims based on § 1983, the court grants its motion to dismiss.

## II.

For the reasons stated above, the court grants the Department of Veterans Affairs' motion to dismiss and dismisses the case without prejudice.

**ENTER:** This \_\_\_\_ day of March, 2004.

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Chief United States District Judge

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<b>WILLIAM L. RACKHAM,</b>	)	<b>Civil Action No. 7:03cv00574</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b><u>FINAL ORDER</u></b>
	)	
<b>DEPARTMENT OF VETERANS</b>	)	<b>By: Samuel G. Wilson,</b>
<b>AFFAIRS,</b>	)	<b>Chief United States District Judge</b>
<b>Defendant.</b>	)	

In accordance with the written Memorandum Opinion entered this day, it is hereby  
**ORDERED** and **ADJUDGED** that Department of Veterans Affairs' motion to dismiss is  
**GRANTED**. The case is **DISMISSED** without prejudice.

The Clerk of the Court is directed to send certified copies of this Order and the  
accompanying Memorandum Opinion to the plaintiff and counsel of record for the defendant.

**ENTER:** This \_\_\_\_ day of March, 2004.

\_\_\_\_\_  
Chief United States District Judge